IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7241 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE Sd/-
and
Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BLUE SKY SYNTHETICS

Versus

UNION OF INDIA

Appearance:

1. Special Civil Application No. 7241 of 2002
MR AMAR P DAVE for Petitioner No. 1-2
MR DN PATEL for Respondent No. 1
..... for Respondent No. 2-3

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 25/10/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

1 Rule. Service of rule is waived by Mr.D.N.Patel, learned Senior Central Govt.Standing Counsel for the respondents. At the request of the learned Advocates the petition is finally heard today.

2 Being aggrieved by the Order-In-Original dated 28.03.2002, the petitioners had filed an appeal before the CEGAT. The appellate authority had directed the petitioners to deposit a sum of Rs.6.5 lakhs by way of pre-deposit vide order dated 4.2.2002 against the demand for Rs.11.51 lacs and penalty imposed upon the petitioners. The said amount of pre-deposit was to be paid on or before 24.03.2002. As the petitioner could not pay the amount of pre-deposit, by order dated 1.7.2002 the appeal filed by the petitioners had been dismissed.

3 Being aggrieved by the order of dismissal, the petitioners have approached this Court. It has been submitted by learned Advocate Mr.Dave appearing for the petitioners that because of financial difficulties the petitioners could not deposit the amount of pre-deposit. The petitioners have shown their willingness to make payment of pre-deposit provided some further time is granted to them. So as to show the bonafides, the petitioners have already deposited an amount of Rs.1,62,500/- on 18.10.2002. In the interest of justice, we grant further time upto 31/03/2003 to the petitioners for paying the amount of pre-deposit. As one-fourth of the amount has been paid by the petitioners, we direct that the remaining three-fourth of the amount shall be paid in three equal instalments. Each instalment shall be paid before 31.12.2002, 15.2.2003 and 31.3.2003.

4 If the petitioners pay the remaining instalments as directed above, the appeal shall be restored to file. The petitioners shall file the report of compliance before CEGAT after all the instalments as directed hereinabove have been paid and upon submission of the report of compliance, the CEGAT shall restore the appeal to file and hear the same in accordance with law.

5 In view of the above and subject to fulfillments of the above condition the impugned order dated 1.7.2002 so far as it pertains to the present petitioners is quashed and set aside. This order shall operate only if the entire amount of pre-deposit is paid by the petitioners. Rule is made absolute with no order as to

costs.

Sd/- Sd/-

(A.R.Dave, J) (D.A.Mehta, J)

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